

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FIRST CAPITAL GROUP, INC.,
a division of FIRST STATE BANK,
a New Mexico Banking Corporation,

Plaintiff,

v.

Civil No. 02-744 WJ/RLP

COLUMBUS CITY WIDE HEATING
& COOLING, INC., an Ohio Corporation,
and JACQUELINE M. FULLER,
Individually,

Defendants.

MEMORANDUM OPINION AND ORDER
VACATING DENIAL OF DEFAULT JUDGMENT

THIS MATTER comes before the Court *sua sponte*. On October 28, 2002, I denied Plaintiff's motion for default judgment, construing Defendant Jacqueline Fuller's letter on behalf of Columbus City Wide Heating and Cooling ("Columbus City Wide") as an Answer (Doc. 8). However, a review of the Court docket indicates that the Clerk of Court issued a letter of deficiency to Defendant Columbus City Wide on September 26, 2002 notifying Defendant that it was not in compliance with D.N.M. LR-Civ. 83.7, which requires that a corporation or partnership be represented by an attorney authorized to practice before this Court. To date, Columbus City Wide Heating and Cooling is still unrepresented by an attorney.

Ms. Fuller's letter (informally captioned as an "Answer to complaint #CIV-02-0744WWDRLP" [sic]), which this Court construed as an Answer, was not signed by an attorney. While this pleading may therefore suffice as an Answer for Ms. Fuller as an individual, it does not

satisfy the requirements of the local rules as to a pleading filed by a corporation or partnership, and thus will not be construed as an Answer for Defendant Columbus City Wide Heating and Cooling.¹

THEREFORE,

IT IS ORDERED that

(1) this Court's previous order denying Plaintiff's motion for default judgment as to Columbus City Wide Heating and Cooling (**Doc. 8**) will be VACATED;

(2) the Clerk of Court is directed to enter **default** against Defendant Columbus City Wide Heating and Cooling; and

(3) parties will be notified of the date and time of a show cause hearing on the issue of default judgment against Defendant Columbus Wide Heating and Cooling.


UNITED STATES DISTRICT JUDGE

¹ Service appears to have been effectuated as to Columbus City Wide Heating and Cooling (Doc. 2).